

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL NOTE

SB 472 - HB 574

March 6, 2017

**SUMMARY OF BILL:** Establishes the *Tennessee Right to Shop Act* (the Act) which requires a healthcare provider, upon request by a patient or prospective patient, to disclose the allowed amount of a non-emergency admission, procedure, or service including the amount for any required facility fees, within two working days of receipt of such request. This requirement of healthcare providers applies regardless of whether it is in or out-of-network of the patient or prospective patient's health insurer. If a healthcare provider is unable to provide a specific amount pursuant to the aforementioned requirement, it must provide the estimated amount for a proposed non-emergency admission, procedure, or service, including any required facility fees and disclose the incomplete nature of the estimate and inform the patient or prospective patient of the right to obtain an updated estimate once additional information is determined. If an insured patient or prospective patient has health insurance, an in-network healthcare provider is required to provide any information available to the patient at the time of request regarding a proposed non-emergency admission, procedure, or service for such patient or prospective patient to receive a cost estimate from their carrier to identify out-of-pocket costs through a toll-free number, website, or access to a third-party service.

Establishes that nothing shall prevent an insurance carrier from imposing cost-sharing requirements imposed on the enrollee's health insurance coverage contract for unforeseen healthcare services that arise out of the non-emergency procedure or service, regardless of whether such was included in the original estimate provided to the enrollee.

Requires a health insurance carrier to establish an interactive mechanism on their websites which enables enrollees in such carrier's plans to request and obtain information on the payments made by the carrier to network providers for healthcare services. This mechanism must allow an enrollee seeking information about the cost of a particular healthcare service to compare costs among network providers.

Requires insurance carriers to provide a shoppable healthcare program as an optional benefit for enrollees. Such program must provide incentives to enrollees who elect to utilize services that charge less than the average price paid by such carrier for the particular healthcare service. Establishes certain categories of services that must be provided. Establishes that credit must be given to enrollees, unless savings earned as a result of the program do not meet minimum savings requirements. Prior to offering any such program, carriers are required to file a description of the program with the Department of Commerce and Insurance (TDCI), which may be reviewed by the TDCI to determine compliance. Such filings are confidential until the TDCI completes such review or the waiver request has been granted or denied by the TDCI. If an enrollee uses a shoppable healthcare service from an out-of-network provider which results in a shared savings incentive payment, the carrier is required to apply the amount paid for such

service toward the enrollee's member cost sharing program as specified by the respective healthcare contract as if service was provided by an in-network provider. Establishes that a shared savings incentive program is not an administrative expense of the carrier for rate development or rate filing purposes. Establishes reporting requirements for carriers regarding shoppable healthcare programs and shared savings incentives. Beginning April 1, 2018 and by April 1 of each year thereafter, the TDCI is required to submit an aggregate report for all carriers filing such reports, to the chair of the Commerce and Insurance Committee of the Senate and the chair of the Insurance and Banking Committee of the House of Representatives.

## **ESTIMATED FISCAL IMPACT:**

**Increase State Expenditures - \$3,200/One-Time  
\$68,600/Recurring**

**Other Fiscal Impact – Due to various unknown factors, any impact to MCOs that are contractual parties to plans administered by the Division of Benefits Administration cannot be reasonably quantified, but is assumed to be negative.**

### **Assumptions:**

- This legislation shall take effect July 1, 2017 and shall apply to all policies or contracts entered into, renewed, amended, or delivered on or after July 1, 2017.
- TennCare establishes standard rates for healthcare services provided to its enrollees and pursuant to Tenn. Code Ann. § 71-5-102, budgets for estimated costs through the General Appropriations Act; therefore, any increase in costs experienced by MCOs will not impact such rates and subsequently, state or federal expenditures related to TennCare plans.
- The TDCI will be required to review the annual reports provided by carriers and aggregate such data into a report to be sent to the chairs, respectively, of the Commerce and Insurance Committee of the Senate and the chair of the Insurance and Banking Committee of the House of Representatives
- TDCI will require one additional actuarial and compliance analyst 3 position.
- The recurring increase in state expenditures is estimated to be \$68,622 (salary \$49,100 + benefits \$11,366 + FICA \$3,756 + office lease \$2,200 + network/phone \$1,600 + supplies \$600) and one-time state expenditures of \$3,200 (office furniture \$2,000 + computer \$1,200).
- According to the Department of Finance and Administration, Benefits Administration, its carriers were consulted to determine any impact that this bill would have on their operations and any costs that may be shifted to the state.
- Based upon information provided by such carriers, it is reasonably assumed that this bill could result in increased expenditures for the MCOs that are contractual parties to plans administered by Benefits Administration; however, any impact could not be reasonably quantified by the carrier and subsequently, costs that would have been passed down to Benefits Administration and to the state and local government employees which prescribe to such plans.

- Although an exact impact to Benefits Administration cannot be reasonably quantified, any impact as a result of this bill is assumed to be negative.

## **IMPACT TO COMMERCE:**

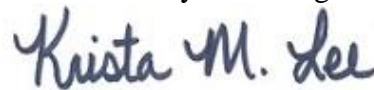
**Other Impact – This legislation is estimated to result in a substantial increase in business expenditures for insurance companies in this state, which may reasonably result in rate increases and subsequently, increased premium collections for such companies; however, any increase in premiums is estimated to be not significant. Notwithstanding any increase in premium collections, insurance companies in this state will experience an increase in business expenditures exceeding \$10,000,000 statewide.**

### **Assumptions:**

- The Bureau of TennCare contacted one of Tennessee's managed care organizations (MCOs) which utilize a similar commercial product in another state to determine cost estimates of providing this program.
- An increase in one-time costs to the MCO are estimated to be approximately \$4,500,000 and include, but not be limited to the following costs: \$1,000,000 for IT construction and implementation costs, \$450,000 for portal/website licensing costs, and \$300,000 for annual licensing fees, maintenance, etc.
- Recurring costs to the MCO of approximately \$300,000 for annual licensing fees and system maintenance, etc.
- The effect upon other private insurance carriers will be dependent upon various unknown factors subjective to the rates and contractual agreements comprising each individual policy of healthcare.
- Any substantial increase in costs to insurers to provide the program required in this bill will be offset by an increase in premium rates and subsequently, premium payments paid by policyholders.
- Notwithstanding any increase in premium collections, the net impact to such insurers is unknown, but is reasonably estimated to exceed \$10,000,000 statewide.

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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